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8 **UNITED STATES DISTRICT COURT**
9 **FOR THE CENTRAL DISTRICT OF CALIFORNIA**
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11 VALENTINA GABRIMASSIHI and
12 EMIN GABRIMASSIHI,

13 Plaintiffs,

14 v.

15 BMW FINANCIAL SERVICES NA,
16 LLC,
17 IRVINE BMW IRVINE MINI,
18 DAMON JOHN SHELLY,
19 IRVINE EUROCARS, LLC, formerly
20 known as DOE 1, and
21 DOES 2-30, inclusive,

22 Defendants.
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Case No. 8:24-cv-01409-JWH-SK

**ORDER REGARDING
PLAINTIFFS' MOTION TO
REMAND [ECF No. 13]**

Before the Court is the motion of Plaintiffs Valentina and Emin Gabrimassihhi to remand this action to Orange County Superior Court.¹ Defendant BMW Financial Services NA, LLC, opposes the Motion,² and the matter is fully briefed.³ The Court concludes that this matter is appropriate for resolution without a hearing. *See* Fed. R. Civ. P. 78; L.R. 7-15. For the reasons described herein, the Court **DENIES** the Motion.

I. BACKGROUND

The Gabrimassihhis initially filed this action in Orange County Superior Court in February 2024.⁴ In their Complaint, the Gabrimassihhis assert the following claims for relief:

- fraud and deceit;
- breach of the implied covenant of good faith and fair dealing;
- violation of Cal. Bus. & Prof. Code §§ 17220 *et seq.* (the “UCL”);
- violation of Cal. Bus. & Prof. Code §§ 1750 *et seq.* (the “FAL”); and
- violation of the California Consumer Legal Remedies Act (the “CLRA”).⁵

Subsequently, while the action was pending in state court, all other Defendants named in the caption were dismissed upon the request of the Gabrimassihhis such that only BMW remained as a Defendant.⁶ In June 2024, BMW removed the case to this Court pursuant to 28 U.S.C. §§ 1332 & 1441, asserting diversity

¹ Pls.’ Mot. to Remand Case to Orange Sup. Ct. (the “Motion”) [ECF No. 13].

² Def.’s Opp’n to Motion (the “Opposition”) [ECF No. 20].

³ Pls.’ Reply in Supp. of Motion (the “Reply”) [ECF No. 21].

⁴ Notice of Removal [ECF No. 1] ¶ 1; *see also* Notice of Removal, Ex. A (the “Complaint”) [ECF 1-1].

⁵ *See generally* Complaint.

⁶ Notice of Removal ¶ 1.

1 jurisdiction.⁷ Specifically, BMW asserted that complete diversity exists among
2 the remaining parties because the Gabrimassihis are citizens of California, BMW
3 is a citizen of Delaware and New Jersey, and, in their Complaint, the
4 Gabrimassihis state that they seek damages in the amount of \$464,908.43.⁸

5 II. LEGAL STANDARD

6 Federal courts are courts of limited jurisdiction. Accordingly, “[t]hey
7 possess only that power authorized by Constitution and statute.” *Kokkonen v.*
8 *Guardian Life Ins. Co. of Am.*, 511 U.S. 375, 377 (1994). “The right of removal is
9 entirely a creature of statute and a suit commenced in a state court must remain
10 there until cause is shown for its transfer under some act of Congress.”
11 *Syngenta Crop Prot., Inc. v. Henson*, 537 U.S. 28, 32 (2002) (internal quotation
12 marks omitted). Where Congress has acted to create a right of removal, those
13 statutes, unless otherwise stated, are strictly construed against removal
14 jurisdiction. *See id.*

15 “Only state-court actions that originally could have been filed in federal
16 court may be removed to federal court by the defendant.” *Caterpillar Inc. v.*
17 *Williams*, 482 U.S. 386, 392 (1987). To remove an action to federal court under
18 28 U.S.C. § 1441, the removing defendant “must demonstrate that original
19 subject-matter jurisdiction lies in the federal courts.” *Syngenta*, 537 U.S. at 33.
20 As such, a defendant may remove a civil action in which either (1) a federal
21 question exists; or (2) complete diversity of citizenship between the parties
22 exists and the amount in controversy exceeds \$75,000. *See* 28 U.S.C. §§ 1331 &
23 1332. “Complete diversity” means that “each defendant must be a citizen of a
24 different state from each plaintiff.” *In re Digimarc Corp. Derivative Litigation*,
25 549 F.3d 1223, 1234 (9th Cir. 2008).

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27 ⁷ *See id.* at ¶¶ 3-7.

28 ⁸ *Id.*; *see also* Complaint 39:15.

III. ANALYSIS

The Gabrimassihis filed their instant Motion in July 2024.⁹ On the same day, they filed a “Request” to dismiss without prejudice their first claim for relief for fraud and deceit and to strike from the Complaint their prayer for punitive damages.¹⁰ This Court struck that Request.¹¹

In their Motion, the Gabrimassihis rely upon their post-removal Request to argue that—because they no longer seek punitive damages—their realistic amount of recovery is \$46,420.76, and, therefore, BMW cannot adequately prove that the amount in controversy is greater than \$75,000, as is required for removal pursuant to diversity jurisdiction.¹²

But diversity, for the purpose of removal to federal Court, is analyzed *at the time of removal*. See, e.g., *Caterpillar Inc. v. Lewis*, 519 U.S. 61, 70 (1996). Here, BMW adequately proved that the parties were sufficiently diverse and that the amount in controversy requirement was met *at the time of removal*.¹³

IV. DISPOSITION

For the foregoing reasons, the Court hereby **ORDERS** that the Gabrimassihis’ instant Motion to remand [ECF No. 13] is **DENIED**.

IT IS SO ORDERED.

Dated: October 17, 2024



John W. Holcomb
UNITED STATES DISTRICT JUDGE

⁹ See generally Motion.

¹⁰ See generally Req. to Dismiss Cause of Action for Fraud and Deceit without Prejudice and Strike Punitive Damages [ECF No. 12].

¹¹ See *id.*; Notice to Filer of Deficiencies [ECF No. 15]; Resp. by the Ct. to NOD [ECF No. 16].

¹² See Decl. of Hovanes Margarian in Supp. of the Motion [ECF No. 13-1] ¶¶ 13-17.

¹³ See generally Notice of Removal.